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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/160,604	09/25/1998	HITOSHI HASHIMOTO	980624/LH	6549

7590 12/18/2003

FRISHAUF HOLTZ GOODMAN LANGER & CHICK
767 THIRD AVENUE
25TH FLOOR
NEW YORK, NY 100172023

EXAMINER

VU, NGOC YEN T

ART UNIT	PAPER NUMBER
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2612

DATE MAILED: 12/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/160,604

Applicant(s)

HASHIMOTO, HITOSHI

Examiner

Ngoc-Yen T. Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-16, 18 and 19 is/are pending in the application.
- 4a) Of the above claim(s) 2, 3, 5-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 16, 18 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Response to Amendment

1. The amendments, filed 08/20/2003, have been entered and made of record.

Response to Arguments

1. Applicant's arguments filed 08/20/2003 have been fully considered but they are not persuasive. The Applicant's arguments will be addressed in the context of the rejected claims.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parulski et al. (US #5,563,658) in view of Suda et al. (US #6,088,060).

Regarding claim 1, Parulski '658 teaches an auto-focusing apparatus comprising:

an image pickup section (Figs. 1-2, image sensor 20) which has an imaging plane on which a subject image is formed, and generates an image signal (col. 4 lines 28-64);

a focusing section (Fig. 1, processor section 35) for selectively executing an ordinary mode of reading an image signal from an entirety of the imaging plane of said image pickup section and performing focusing at an ordinary frame rate (col. 5 lines 18-27), and a high speed mode ("fast flush focus mode") of reading an image signal from a predetermined portion (Fig. 3,

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center region 66) of the imaging plane of said image pickup section and performing focusing at a high speed frame rate (col. 4 line 65 - col. 5 line 17; col. 5 line 28 - col. 6 line 23);

an operation section (capture button 16) for instructing a release operation (col. 5 line 28 - col. 6 line 23).

Claim 1 differs from Parulski '658 in that the claim further requires a control section for selecting the high speed mode first after a start of the release operation, and for selecting the ordinary mode when the control section determines to fail to allow the focusing in the high speed mode. It is noted that Parulski '658 teaches that the focusing section operates in the high speed mode first (col. 5 line 28 - col. 6 line 23). The claimed limitation is well known in the art as shown in Suda '060. In the same field of endeavor, Suda teaches an auto-focusing apparatus comprising an image pickup section and a focusing section (see Figs. 6, 8 and 10). Suda further teaches that the center of a focus detecting area can be selectively set according to the focus evaluating values of each focus detecting area (see Figs. 7 & 9; col. 6 line 54 – col. 7 line 8; col. 10 line 48 – col. 12 line 30). In light of the teaching from Suda, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have the focusing device taught in Parulski to have a control device as claimed so as to provide a focusing device having high degrees of accuracy and reliability.

As to claim 16, Parulski '658 teaches that the focusing section includes a processor (focus determination circuit 56 and control interface processor 52) which determines an in-focus state by checking after the high speed mode whether a peak value of auto-focusing evaluation values is detected (Fig. 6, col. 4 line 65 - col. 5 line 17; col. 5 line 28 - col. 6 line 23).

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4. Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parulski '658 in view of Suda '060, and further in view of Toji (US #5,694,168).

As to claims **18-19**, the claims differ from Parulski and Suda in that they further require that when the focusing section determines whether the first release operation is canceled when the in-focus stat is determined, the focusing section executes an auto-exposure when the first release is canceled and determines whether a second release operation is performed when the first release operation is not canceled. However, it is well known in the art to execute an auto-exposure process when the in-focus state has been determined, as taught in Toji '168 (see col. 7 lines 11-65). In light of the teaching from Toji, it would have been obvious to one of ordinary skill in the art at the time the invention was made to execute an auto-exposure process when the in-focus state is determined so as to assure that judgement of a peak focus value is not influenced by a brightness of an object, thus providing a reliable focusing apparatus.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc-Yen T. Vu whose telephone number is 703-305-4946. The examiner can normally be reached on Mon. – Fri. from 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy R. Garber can be reached on 703-305-4929. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.


NGOC-YEN VU
PRIMARY EXAMINER
Art Unit 2612

NYV
12/15/2003